

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

**FIELDWORKS, LLC**

**and**

**Case No. 19-CA-135042**

**MATTHEW MARINO, An Individual**

*Lisa Dunn, Esq.*, Counsel for the General Counsel.

*Joseph Sandler, Esq. and Jessica Krupke, Esq., Sandler, Reiff, Lamb, Rosenstein & Birkenstock, PC*, Counsel for the Respondent.

**DECISION**

**Statement of the Case**

**Joel P. Biblowitz, Administrative Law Judge:** This case was heard by me on April 21 and April 22, 2015 in Portland, Oregon. The Complaint herein, which issued on November 18, 2014<sup>1</sup> and was amended on April 6, 2015, was based upon an unfair labor practice charge and a first and second amended charge filed on August 19, September 5 and November 7 by Matthew Marino. The Complaint alleges that on about August 16 the Respondent threatened employees that they would be blacklisted because of their union and protected activities and, on various dates between August 10 and 18, it assigned Marino to work locations other than the locations he had customarily been assigned to, and on August 18, discharged him due to his union and protected concerted activities, in violation of Section 8(a)(1)&(3) of the Act.

**I. Jurisdiction and Labor Organization Status**

Respondent admits, and I find, that it has been an employer within the meaning of Section 2(2), (6) and (7) of the Act, and that United Campaign Workers, affiliated with Industrial Workers of the World, herein called the Union, is a labor organization within the meaning of Section 2(5) of the Act.

**II. The Facts**

Respondent's employees are engaged in gathering signatures on petitions, registering voters, canvassing door to door, and requesting that individuals support a particular candidate, ballot initiative or cause. They are assigned to work at specific locations of the city in which they are employed to approach members of the public, or to knock on doors for this purpose. The employees are classified as canvassers and team leaders; both classifications perform, basically, the same work except that canvassers who are promoted to team leaders train and otherwise assist the canvassers. The employees carry a cell phone type of device which logs their activity, as well as their location. When they register a voter, they click the button on the device which reports the transactions to a computer at the Respondent's headquarters. Likewise, when a canvasser knocks on a door to speak to the resident, he/she hits the same button, which also records the transactions on the Respondent's computer. This device enables

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<sup>1</sup> Unless indicated otherwise, all dates referred to herein relate to the year 2014.

the Respondent to track the canvasser's location, as well as the number of interactions that the canvasser had with the public, and the time of these interactions. On the basis of the information received from this device, the computer prints up a report for each canvasser for each day, including the first and last interaction, the number of gaps of ten minutes or more (between clicks), fifteen minutes or more, forty five minutes or more, and the longest period between gaps, presumably, when employees were not properly involved in their work.

Marino began his employment with the Respondent in May as a canvasser in Portland and was promoted to a team leader two weeks later. He was employed there in that position until he was fired on August 18. He testified that in early June he was given a campaign flyer for the Union and beginning at that time, he spoke to fellow workers about the Union. Sometime in July, a fellow employee, Eric Fletcher, came into Respondent's office wearing an IWW pin and and told him about the Union and about a meeting that the Union was holding on July 23. About ten to twelve individuals attended the meeting, but Marino and Fletcher were the only employees of the Respondent present; the others were employed by similar companies in the area. At this meeting, Marino spoke to a lead organizer who recommended some strategy to employ in an organizing campaign. After the meeting Marino approached fellow employees who he felt might be interested in the Union; because of the high turnover of employees, he spoke mainly to team leaders and employees who had been employed by the Respondent for a long time. The next Union meeting took place on August 4 and about seven of Respondent's employees attended. All of the Respondent's employees who attended this meeting signed authorization cards for the Union at the meeting. They discussed strategy and tactics that they would employ, contract demands, as well as a list of Respondent's employees and which ones to speak to, and which ones should not be spoken to. He, together with fellow employees Chris Humbird and Daniel Keesler became the leaders in the organizing drive and they were assigned employees whom they should speak to. In addition, he testified that at the Union meetings, some of the employees referred to the organization drive as "Matt's thing;" none of the other witnesses at the hearing remembered this title. He testified that in early August he spoke to Anthony Dimezza, at the time a team leader, about the Union and "he was very interested and enthusiastic about getting involved," because he felt that the industry standards were very low.

Barrett Ross, who began his employment with the Respondent in August as a canvasser became an officer of the Union in June while employed by CRRH, which is engaged in a similar business as the Respondent. When he worked for the Respondent in August, he wore T-shirts and buttons with the Union's name to work and spoke to other employees about how the Union could improve their working conditions. In addition, he attended the Union meetings on August 4, 21 and 25 where they discussed ways to organize more of the employees and how they could improve their working conditions. Jordan McClure was employed by the Respondent from May to November and was also involved in the Union's attempt to organize the Respondent's employees. He attended the Union meetings in August where they discussed their conditions of employment and the best way to organize the Respondent's employees.

Christopher Gallaway, a co-owner of the Respondent, testified that sometime in the Summer of 2014 he heard that a competitor was being organized by a union, but before that could be accomplished, that company went out of business. The first time that he knew that the Union was attempting to organize his employees was on September 17, when "an organizing committee stormed into our office" with a list of demands as well as thirteen to fifteen Union authorization cards. The three listed demands were to comply with all applicable laws, including Portland's paid sick leave ordinance, stop retaliating against its employees, and to set up a meeting with the Union within seventy two hours to discuss terms and conditions of employment. Subsequently the parties had one in-person meeting, as well as a conference call discussion, but no agreement was reached by the time the Respondent's work in Portland

concluded, and all employees were let go.

Thomas Browne was employed by the Respondent as an office director in the Portland office and in about May he became state-wide director for the State of Oregon. He testified that in about June he was shown a Union flyer stating that the Union "wanted to organize campaign workers;" even though it did not mention the Respondent, he forwarded the flyer to the Respondent's principals. In addition, in early August Lisa Kent, a team leader, told him that there was a Union meeting about organizing the Respondent's employees in Portland. Kent did not mention any employees by name, and he was not aware of which employees participated in the Union's organizing drive.

In about early to mid- August, Marino, McClure and Ross met with Dimezza in a bar in Portland. Because Dimezza was an experienced team leader, they wanted to get him involved in the Union campaign. When Marino tried to explain the advantages of the Union, Dimezza made it clear to them that he was not interested in supporting the Union. Dimezza testified that in response to Marino's request that he join in the effort to organize the Respondent's employees, he told them that because of the nature of the industry, it would be more appropriate to have all the employers in the industry covered, so that no matter which company he was employed by, he would be covered. Marino was dismissive about his argument, and the discussion ended. Dimezza became the deputy director of the Portland office, and a supervisor within the meaning of the Act, on August 15.

It is initially alleged that on about August 16 Dimezza threatened employees that they would be blacklisted because of their Union and concerted activities. Marino testified that on that day, Dimezza, who had been promoted on the prior day, came to see him at his work site ("turf"). Marino told him that he was surprised at the assignment he was given that day and Dimezza told him to just stay at the site that was assigned to him and Marino said that he often floats around to different locations to check on some of the canvassers. He was then asked:

Q And did Mr. Dimezza have any other comments during this exchange?

A Yes.

Q What did he say?

A He remarked about the Union.

Q and what did he say about the Union?

A He said that it's a small community here in Portland, and if you fuck over one company, you'll be blacklisted.

He testified that when he returned to the office that afternoon he reported that he had a "pretty good day," having obtained twenty signatures and Bruce said, "Well, your numbers are sagging." He asked if it was because he did not make the quota of twenty one and she said that it wasn't about the quota, and he told her that it was against the law in Oregon to enforce a quota: "she started freaking out and completely, like, ended the subject." On the following day, when he returned, Bruce asked him, "What's happening with your numbers? Your numbers are sagging. If this continues we're going to have to let you go." He explained that his numbers were lower than usual because of a derailment on the train that day. She also said that there were gaps in his button pushing, including a forty five minute gap.

Dimezza testified that August 15 was his first day as deputy director and he went to do site checks to see what the canvassers were doing. Before leaving, Jessica Crompton, the other deputy director, told him that Marino had an attitude problem. He went to Marino's work site and found him wandering around without talking to anybody:

5 I basically told him to just play the game. Stay in your spot, talk to everyone, just do your job...Everyone kind of knows each other in the canvassing world here. And it was kind of a reminder that you can get a reputation by your actions. By not working, by kind of  
10 screwing around, by having a bad attitude. If you look for another job in this city as a canvasser that could potentially be harmful to you in getting employment with someone else.

Marino did not respond and Dimezza did not discuss the Union or organizing of the canvassers. He never used the word "blacklist" in this discussion.

15 Marino had difficulty answering questions directly, especially during cross examination. For example, while being questioned by counsel for the Respondent about sick leave:

20 Q Did you at any time during your work for Fieldworks in Portland in 2014, qualify for sick leave under the Portland sick leave law?

A Yes.

25 Q You did? And when was that?

A The whole time I was working there I should have been. After a certain date when- that you begin accruing sick time. That's my understanding of the law.

30 Q But...you're only entitled to take the sick time if you or a particular class of relatives are sick, right?

A Oh yeah. Yes, absolutely.

35 Q And did that happen to you while you were employed by Fieldworks in Portland?

A They are supposed to put it on your check. You earn the time. And there was nothing indicated on the check.

40 Q Okay, but...was there any point in time where you entitled [sic] to sick leave---paid sick leave days that weren't given to you?

A According to the law, yes.

45 Q But...you weren't entitled to take the sick leave because you were never sick nor was any relative covered by the law, right?

A Oh yeah. Yeah, I never actually requested the time.

50 It is next alleged that between August 10 and August 18, Marino was assigned to work at locations other than the locations where he had customarily been assigned to work and that this change in assignments was due to his Union and protected concerted activities. Marino testified that at an after work team leader meeting on August 9, he told Browne that it wasn't fair

that team leaders were subject to the same “quota” as canvassers because team leaders had other duties as well, such as training new employees. At the time they were performing voter registrations and the quota, or standard, was twenty one registrations per day. Marino cannot recall Browne’s response, but testified that Browne changed the subject immediately. Marino raised his hand with another question, but Browne did not recognize him and closed the meeting. He approached Browne at his desk and asked why employees were not receiving sick time pursuant to the law in Portland, and Browne responded that its employees were not eligible because they were temporary employees. Marino asked, “How am I temporary? I’ve been working full-time for almost four months.” He then asked Browne why the team leaders were not paid overtime when they worked over eight hours a day including attending team leader meetings, and Browne said that in Oregon you have to work in excess of fourteen hours to receive overtime pay. Marino testified that at the conclusion of that conversation, Browne told him that from now on he would be working on the MAX Light Rail Train. Browne testified that Marino asked him about sick leave on about August 9, but that he does not remember telling Marino that from then on he would be working on the MAX light rail line.

Respondent’s Portland office covers the City of Portland as well as some suburban areas. The canvassers and team leaders receive their work assignments on a daily basis after indicating the days that they are available to work. Respondent’s business records state that on August 12 and August 16 Marino worked at Pioneer Square, on August 14 he worked at the Bus Mall Downtown, August 15, the Blue Line Max and August 18 at the Gresham Transit Center. Marino did not work on August 10 or 13, at his request, and the record contains no work record for him for August 17, although he testified that he did work that day at the Blue MAX line. The Respondent’s records state that from May 15 through August 9, Marino was assigned to Pioneer Square on three days, the Bus Mall Downtown on four days, and had not previously been assigned to the Blue Line Max or the Gresham Transit Center, and that during this period, he was assigned to almost twenty five different locations, the most being at Hawthorne where he was stationed eleven times. Marino testified that on August 11<sup>2</sup>, he was assigned to Gresham Transit Center, which he considered a bad location, and he went to speak to Browne about it, and Browne told him that from then on everybody will get the work location that they want.

Marino testified about what he considered the best and worst locations for assignment. The best were the downtown locations, such as Hawthorne, because there were a lot of people there. The worst locations were the suburban areas such as Gresham, because there are fewer people and they tended to be more conservative. He did not like the MAX train lines because they were confining and he liked to walk around and he has informed Browne that is the reason he does not like the MAX train line. Other canvassers, such as Jeff Henderson and Drew Rosa like the MAX line and are successful at soliciting signatures at those locations.

Gallaway testified that the company generally assigns the best canvasser to the best site and tries to match the right person to the right area. However, they avoid assigning one person to the same site repeatedly for a number of reasons, primarily because they would see some of the same people every day, which encourages fraud because, absent seeing new people, the canvasser might request that a person who previously signed, do so again. Bruce testified that the Respondent was obligated under their contract with Our Oregon to collect a certain number of voter registration cards from the suburban areas and Gresham was one of those areas and the Gresham Transit Center “...out of the suburban sites was one of the best sites we had.”

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<sup>2</sup> Respondent’s business records indicate that Marino worked on August 11, but do not specify a location.

Marino was assigned to that location because, "the thought is you put somebody who's good at collecting voter registration cards at a slightly slower spot, and they're still going to do better than somebody who's poor at collecting voter registration cards." Dimezza testified that although he did not assign the canvassers to work sites, he has worked on the Blue Line and considers it one of the best work sites, and he has worked at the Gresham Transit Center and would not consider it a bad work location. As far as whether a location is a good or bad location, "it depends on the canvasser." If he/she approaches it properly, it will be a good work site: "As far as good sites, we have a goal to meet for our clients. We wouldn't send anyone anywhere that's not a good site." Browne testified that in making assignments to the canvassers, "...the driving thing is the best people at the best sites." He does not recall telling Marino, or any other employee, that they would get the sites that they wanted. At the time Jessica Crompton was making the assignments and although Marino worked the downtown area a lot, they wanted fewer people downtown so they assigned him to the Blue Line and the Gresham Transit Center, both of which are good work sites. One reason that they assigned Marino to the Blue Line was that although he was a good canvasser, "he had a tendency to wander a bit," and being on the Blue Line would curtail his wandering. Neither assignment was meant as punishment for his Union activity.

Marino was terminated on August 18. While at the Gresham Transit Center that day he only secured fifteen signatures, below his usual production and the Respondent's "quota" of twenty one. When he returned, he met with Bruce and Dimezza for the end of the day review. Bruce "expressed concern" about his numbers and he responded that he did really well for the site. He testified: "I was beginning to get very upset." After this discussion, Bruce asked him to build a crew box, which contains all the items that a canvasser needs to perform the job. Although he had previously built crew boxes, it was not a regular part of his job as a team leader. Bruce testified that it was not unusual to ask team leaders to make up crew boxes, especially if they return to the office prior to 7:00, the end of the shift: "If team leaders don't make crew boxes, the directors make the crew boxes." While he was doing that, Bruce approached him and said that he looked upset, and he said that he was upset because his job had been threatened by Dimezza, who threatened him that he would be on a blacklist because of his Union organizing and Dimezza denied making that statement. Bruce said that he had a hostile attitude and she "started freaking out," and she asked him and Dimezza to come into the office to talk. Bruce resumed the discussion by saying that he was an excellent canvasser who always met and exceeded their goals, and that he trained people and was respected in the office, but he had a hostile attitude. He responded that his attitude was caused by the fact that Bruce had alienated the staff and that the high turnover rate of employees was caused by the way management treated the employees: "...and that I felt like we didn't need the Fieldworks management to do this job, that we could do a better job ourselves." He then said that he was being fired because he was organizing a union, and Bruce said, "Oh no, go ahead, start a union." Marino then said, "No, you can't say that after you've intimidated me and threatened me with a blacklist." He then told Bruce that she was alienating the staff and she responded, "I'm doing the best that I can." He ended the conversation by saying, "I think you're doing a terrible job" and she replied that he "was gone." He walked out of the office and when Dimezza walked out of the office, Marino called him a rat and a low piece of shit. Marino was questioned on cross examination about three employees who became leaders of the Union campaign after he was fired and he testified that none of them were either fired or were given undesirable work assignments.

Respondent's business records state that Marino was terminated on August 18 for a "poor attitude." Respondent's business record entitled Canvasser Time Stamp Review, which records the information from the cell phones that each canvasser uses to record all activity, states that on August 15 Marino had four forty five minute periods ("Gaps") during which he did

not press the red button and, presumably, had no transactions. After receiving that report, Bruce discussed Marino, as well as other employees with Dimezza, Crompton and Browne. The discussion about Marino was about his poor attitude, for example his lack of participation in the office training sessions, as well as his "body language" when asked to do such things as making crew boxes, although there was no talk of terminating him. They agreed that because of his poor attitude, they would try to avoid having him train new employees ("Day Ones"). She spoke to Marino when he returned to the office on August 18. She told him about the forty five minute gaps in the August 15 report and gaps on other days as well, and that they were trying to reduce these gaps among all of the employees. She testified that the conversation "quickly escalated to where I felt like he was very angry, talking very loudly..." As best as she could recollect, he responded that he couldn't believe that she would question his numbers. Because she felt the discussion was escalating, she moved it to a side office with just herself, Dimezza and Marino. She told him, "You're good at your job, and I would like to keep you around as a team leader, but the attitude problem has got to stop." Marino answered that it was all about the Union, and she told him, "No it's not. Nobody cares about your union" and that the company is pro-union and that unions are a major source of their income. Marino then said that Dimezza threatened that he would be blacklisted because of his Union activities, which she said that she didn't know about, and she told him that his negative attitude was the real problem and that she feels disrespected when she asks him to do something. Marino then said that he had no respect for her or Browne, and had no respect for any of the partners at the company. Bruce then said that she was sorry, but she would not be able to keep him on staff. Bruce testified that she discharged three other employees for a poor attitude, one on about the same day as Marino; to her knowledge, none of them were involved in the Union campaign.

Dimezza testified that when Marino returned to the office on that day, Bruce said something to him about a problem with his work, he got upset and left the area for a few minutes. When he returned, he began screaming at Bruce and Dimezza, saying that Dimezza threatened to blacklist him, and that Bruce was rude, horrible and didn't know what was going on. Bruce had them go into an office with her, and it escalated; Marino was irate and said that the workplace and the directors were horrible and that they had no idea what they were doing. At that point, Bruce told him that he was fired.

### III. Analysis

I found Browne and Bruce the most credible witnesses; they each answered the questions in a direct and concise manner and, when they were not certain of the answers, they said so. Marino and Gallaway were totally different witnesses. They went on and on and answered the question that they wanted to answer, rather than the question that was asked. Although they were not incredible witnesses, their testimony had to be examined carefully to separate the truth from the propaganda. For example, a good portion of Gallaway's testimony was intended to establish that Respondent would not discharge employees due to their union activity because its business comes principally from unions and liberal organizations. While that has some relevance, his testimony was infused with that theory. Marino's testimony was often oversimplified and exaggerated; often, when he was speaking to management that person "freaked out." In addition, in what appears to be a contradiction, he testified that after he questioned Browne about sick leave and other issues on August 9, and unsuccessfully attempted to question him further, Browne responded that from then on he would be working the Light Rail Line. Yet, two days later, when he complained to Browne about being assigned to the Gresham Transit Center he testified that Browne told him that from then on everybody will get the work location that they want.

As Dimezza denies threatening Marino with being blacklisted, I must credit either

Dimezza or Marino. Although I found Dimezza to be a reasonably credible witness, I credit Marino's version of the August 16 discussion because it is more reasonable and believable. Marino testified that he told Dimezza that he floats around to check on the canvassers, and that Dimezza told him to stay at the site that he was assigned, and said that it was a small community and that "if you fuck over one company you'll be blacklisted." Dimezza testified that he told him to stay at his spot and "just play the game" because everybody knows each other in the area. I find Marino's version more likely because I find it unlikely that future employers in the area would learn that Marino "floated" around his area, rather than staying in one spot, while it is more likely that if they learned that he was active in organizing the Respondent's employees it could affect his future employment. As I credit Marino's testimony about this August 16 discussion, I find that it violates Section 8(a)(1) of the Act. *Blake, Moffitt & Towne*, 214 NLRB 859 (1974), cited by Counsel for the General Counsel, is right on point.

The next allegation is that on certain days between August 10 and 18, the Respondent assigned Marino to work locations where he had not customarily worked, due to his Union and protected concerted activities, in violation of Section 8(a)(1)&(3) of the Act. The Respondent's business records, which I credit, establish that on August 12 and 16 he worked at Pioneer Square, where he had worked on three days prior to August 10, on August 14 he worked at the Bus Mall Downtown, where he had previously worked on four occasions, and the Blue Line Downtown on August 15 and the Gresham Transit Center on August 18, where he had never previously worked. Marino agrees with this record that he did not work on August 10 and 13, at his request, but testified that he worked at the Gresham Transit Center on August 11, and at the Blue Line on August 17, although there is no record of the latter on the Respondent's business records. Regardless of whether Respondent's business record or Marino's testimony is correct, there were two to four days during this period that he was assigned to a location that he had never previously worked at.

The issues of Marino's change in assignments and discharge is to be judged under the standards of *Wright Line*, 251 NLRB 1083 (1980). Under this test, Counsel for the General Counsel must initially make a prima facie showing sufficient to support the inference that Marino's protected conduct was a "motivating factor" in the Respondent's decision to assign him to new locations and to subsequently discharge him. If that has been established, the burden then shifts to the Respondent to establish that it would have taken these actions regardless of his protected conduct. I agree with Counsel for the General Counsel's argument that Marino was engaged in protected concerted activities under the standard set forth in *Meyers Industries*, 281 NLRB 882 (1986). On August 9, he questioned Browne about team leader responsibilities, sick leave and overtime pay. Although he was the only one questioning Browne about these subjects, they clearly related to the terms and conditions of employment of the Respondent's employees and therefore constitutes protected concerted activities. As the alleged unlawful assignments occurred on the following day, I find that Counsel for the General Counsel has sustained her initial burden under *Wright Line*, *supra*. However, I also find that the Respondent has sustained its burden of establishing that it would have engaged in this action regardless of Marino's activities. As the record indicates that as he worked at Pioneer Square and the Bus Mall Downtown (where he had previously worked) on August 12, August 16, and August 14, the alleged discrimination occurred on August 15 and, possibly August 17 with assignments to the Blue Line, and August 18 to and possibly August 11 to Gresham Transit Center. However, although Marino did not subjectively like the Blue Line or the Gresham Transit Center assignments, the evidence establishes that others did, and did well at these locations, particularly the Blue Line. Further, in the ten week period prior to August 10, Marino was employed at approximately twenty five different work locations. I therefore find that these assignments did not constitute a form of discrimination and that there is no credible evidence connecting the assignments during this period to his protected conduct and recommend that this



allegation be dismissed.

The final allegation is that Marino was discharged on August 18 because of his Union and protected concerted activities. As Browne was aware of his protected concerted activities on August 9, and as Dimezza, who was aware of his Union activities, became a supervisor within the meaning of the Act on August 15, I find that Counsel for the General Counsel has sustained her initial *Wright Line* burden. However, I find that the Respondent has satisfied its burden of establishing that Marino would have been discharged regardless of his protected conduct. The evidence establishes that in July and August, Fletcher and Ross came to the Respondent's office wearing either a Union button or T-Shirt, without incident, and there is no evidence to establish that either Browne or Bruce were aware of Marino's Union activities at the time of his discharge or that the Respondent had union animus. Further, I found Bruce to be a credible witness and I credit her testimony that when she spoke to him on August 18, she intended to discuss the problems that they had with him, rather than discharging him. However, when she started discussing the gaps in his August 15 performance, the conversation "quickly escalated" with Marino raising his voice and saying that he couldn't believe how she could question his performance. When she told him that he was good at what he did, but had an attitude problem, he responded that it was all because of his Union activities, which she denied, and said that nobody cared about the Union and that the company was pronounion. When she said that she felt disrespected by him, he said that he had no respect for her, Browne, or anybody else at the company. At that point, she told him that he was discharged. Counsel for the General counsel argues in her brief that Marino's statements during this meeting were within the parameters of *Atlantic Steel*, 245 NLRB 814(1979) and therefore the discharge violated the Act. However, *Atlantic Steel* only applies when an outburst, or other strong language, occurs in the midst of the employee's protected concerted activities, *Plaza Auto Center, Inc.*, 355 NLRB No. 85, p. 2 (2010), and there were no protected concerted activities engaged in, or discussed at this August 18 meeting. The discussion was only about Marino's work deficiencies, not the conditions of employment of all the employees, and the evidence establishes that it was his outburst at this meeting, rather than his Union or protected concerted activities, that caused his discharge. I therefore recommend that this allegation be dismissed.

### Conclusions of Law

1. Fieldworks, LLC has been an employer within the meaning of Section 2(2), (6) and (7) of the Act.

2. United Campaign Workers, affiliated with International Workers of the World, has been a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent violated Section 8(a)(1) of the Act by threatening employees with blacklisting because of their union and protected concerted activities.

4. The Respondent did not violate the Act as further alleged in the Complaint.

### The Remedy

Having found that the Respondent has threatened an employee with blacklisting because of his union and protected concerted activity, I recommend that it be ordered to cease and desist therefrom and to post a notice to its employees in that regard.

Upon the foregoing findings of fact, conclusions of law and based upon the entire record, I hereby issue the following recommended<sup>3</sup>

**ORDER**

The Respondent, Fieldworks, LLC, its officers, agents, successors and assigns, shall

1. Cease and desist from threatening employees with blacklisting due to their union and protected concerted activities, or in any like or related manner, interfere with, restrain or coerce employees in the exercise of their rights protected by Section 7 of the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Within 14 days after service by the Region, post at its facility in Portland, Oregon or, if the Respondent does not have an office in Portland, Oregon, at its office closest in proximity to Portland, copies of the attached notice marked "Appendix."<sup>4</sup> Copies of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 16, 2015.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

**IT IS FURTHER ORDERED** that the Complaint be dismissed insofar as it alleges violations not specifically found.

**Dated, Washington, D.C. June 9, 2015**

\_\_\_\_\_  
Joel P. Biblowitz  
Administrative Law Judge

<sup>3</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

<sup>4</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

**APPENDIX**

**NOTICE TO EMPLOYEES**

**Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this Notice.

**FEDERAL LAW GIVES YOU THE RIGHT TO**

Form, join, or assist a union  
Choose representatives to bargain with us on your behalf  
Act together with other employees for your benefit and protection  
Choose not to engage in any of these protected activities

**WE WILL NOT** threaten our employees with blacklisting in retaliation for their union or protected concerted activities.

**FIELDWORKS, LLC**  
**(Employer)**

**Dated** \_\_\_\_\_ **By** \_\_\_\_\_  
**(Representative)** **(Title)**

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: [www.nlr.gov](http://www.nlr.gov).

915 2nd Avenue, Federal Building, Room 2948  
Seattle, Washington 98174-1078  
Hours: 8:15 a.m. to 4:45 p.m.  
206-220-6300.

The Administrative Law Judge's decision can be found at [www.nlr.gov/case/19-CA-135042](http://www.nlr.gov/case/19-CA-135042) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.



**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 206-220-6284.